THE HON'BLE SRI JUSTICE L. NARASIMHA REDDY

W.P.NO.18602 OF 2005

Dated 29-08-2005

Between:

Smt. LBandi Thirupathamma,

D/o.(late) Bandi Posalu, aged 50 years,

Occ: Cultivation, R/o.Sridharavelair Village,

Burgampahad Mandal,

Khammam District

(Legal heir of late Bandi Posalu)

…Petitioner

AND

The Mandal Revenue Officer,

Burgampahad Mandal, Khammam District

and another.

…Respondents

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ORDER:

The petitioner claims to be the daughter of one Bandi Posalu. She states that, her father owned and possessed an extent of Ac.2.09 guntas of land in Sy.No.407, situated at Sridharavelair village of Burgampahad Mandal, Khammam District. According to her, after the death of her father, she succeeded to that property and is in peaceful possession and enjoyment of the same. The grievance of the petitioner is that the 1st respondent is proposing to take possession of the land, on the strength of an order passed in LTR Case No.H/191/94/BPD, dated 28-08-2001, passed by the Agency Divisional Officer, Palwancha.

The petitioner states that on verification of the relevant record, she came to know

that the Agency Divisional Officer, Palwancha, initiated *suo motu* proceedings under the provisions of the A.P. Schedule Area Land Transfer Regulations, 1970 (for short '*the Regulations*'), in relation to the said land. It is alleged that though her father died about 35 years back, he was shown as one of the respondents. According to the petitioner, the Agency Divisional Officer, proceeded as though her father being a non-tribal, transferred the land in favour of the 2nd respondent, another non-tribal, and directed resumption of that land. The 2nd respondent is said to have preferred an appeal before the Additional Agent to Government, Bhadrachalam, against the order of ejectment, dated 28-08-2001, and in view of the dismissal of the appeal on 22-01-2005, the 1st respondent is taking steps to dispossess her. It is also represented that certain civil disputes are pending between the petitioner, on the one hand, and the 2nd respondent, on the other hand.

The learned counsel for the petitioner submits that the Agency Divisional Officer, Palwancha, initiated proceedings, under the Regulations, against the father of the petitioner, who was no more, and as such, the order is a nullity. He further submits that the 2nd respondent, who preferred the appeal against the order dated 28-08-2001, did not disclose before the appellate authority about the death of her father, and thereby, an order, which was otherwise a nullity, was upheld.

Heard the learned Government Pleader for Social Welfare.

If the father of the petitioner was not alive by the time LTR case No.H/191/94/BPD was initiated, or, as on 28-08-2001, when it was disposed of, it would naturally be a nullity. Whenever any steps are proposed to be taken, in respect of the land held by a dead person, his legal representatives are required to be brought on record. The petitioner can certainly bring this important and crucial fact to the notice of the Agency Divisional Officer. In case, it is proved that Bandi Posalu, one of the respondents in that LTR, was no more, when the case was

resided, the authority can certainly recall its order; set aside the entire proceedings, and initiate fresh proceedings, duly impleading the petitioner herein. This Court cannot adjudicate upon such questions of fact and decide, as to whether the father of petitioner was alive, by the time the proceedings were initiated by the Agency Divisional Officer.

For the foregoing reasons, the writ petition is disposed of, leaving it open to the petitioner to file an application, within a period of four weeks from today, before the Agency Divisional Officer, Palwanca, to recall the order dated 28-08-2001, on the ground that her father, who was impleaded as one of the respondents, was not alive by the time the LTR case was filed or decided. It is made clear that, in case it is established by the petitioner that her father was not alive as on 28-08-2001, the order passed by the Agency Divisional Officer, Palwancha, as well as the order passed by the Appellate Authority, shall be treated as void and inoperative in law. Till such application is filed within the time stipulated above, and disposed of, the petitioner shall not be dispossessed from the land in question. There shall be no order as to costs.

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L. NARASIMHA REDDY, J.

Dt.29-08-2005

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